

Our Reference: MCUI/2023/3530  
CS Portal Reference: N/A  
Officer: Kasey McKillop  
Contact: 07 4692 0159  
Email: [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au)

**Development Application Decision Notice**  
**APPROVAL**  
*Planning Act 2016 Section 63*

Genius Removals Pty Ltd  
C/- Onf Surveyors  
PO Box 3044  
DARRA QLD 4076

Email: [admin@onfsurveyors.com.au](mailto:admin@onfsurveyors.com.au)

7 May 2024

Dear Sir/Madam

**Location:** 2 McCartin Court, TORRINGTON QLD 4350  
**Property Description:** Lot 7 SP166685  
**Relevant Planning Scheme:** *Toowoomba Regional Planning Scheme 2012*

The Development Application for Material Change of Use - Impact - Transport Depot, for the abovementioned property has been assessed and approved in full with Conditions. It is considered that the approved development generally complies with the relevant assessment benchmarks or can be conditioned to comply. The decision was made on 7 May 2024. The following provides all the relevant details:

#### Details of Approval

Development Permit – Material Change of Use - Impact - Transport Depot

#### Referral Agencies

Concurrence Agencies Name & Address: Department of State Development, Infrastructure,  
Local Government and Planning  
PO Box 825  
TOOWOOMBA QLD 4350

Advice Agencies Name & Address: N/A

#### Conditions and Advices

Assessment Manager's Conditions: As per attached Schedule 1

Concurrence Agency Conditions: As per attached Schedule 2

#### Currency Period

In accordance with section 85(1)(a)(ii) of the *Planning Act 2016* (Qld), this Development Approval lapses, to the extent the development is not completed, if the first material change of use under this Development Approval has not happened within six (6) years of this Development Approval starting to have effect.

#### **Further Development Permits Required**

- Building Work
- Plumbing and Drainage Work
- Operational Work

#### **Further Plans/Documents for Endorsement**

The following documents/plans require Endorsement:

- Landscape Plan
- Site Based Environmental Management Plan

#### **Submissions**

Number of properly made submissions: 3 (see attached list of names and addresses)

#### **Rights of Appeal**

Attached is an extract from the *Planning Act 2016* which details your appeal rights regarding this decision.

The *Planning Act 2016* is available on the Office of the Queensland Parliamentary Counsel website via:

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2016-025>.

Yours faithfully



Krys den Hertog  
Principal Planner, Planning Branch



# TOOWOOMBA REGIONAL COUNCIL

A.B.N. 997 8830 5360

## SCHEDULE 1

### DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE - IMPACT

<b>APPLICATION NUMBER:</b>	MCUI/2023/3530
<b>APPLICANT:</b>	Genius Removals Pty Ltd
<b>LOCATION:</b>	2 McCartin Court, TORRINGTON QLD 4350
<b>PROPERTY DESCRIPTION:</b>	Lot 7 SP166685
<b>APPROVED USE:</b>	Transport Depot
<b>ZONING / PRECINCT:</b>	Rural Residential Zone / RR1 4,000sqm Precinct

#### A. ASSESSMENT MANAGER'S CONDITIONS:

##### PLANNING

##### APPROVED USE

1. This Development Approval is for a Material Change of Use for a Transport Depot as follows:
  - 1.1 Transport Depot for use by a maximum of four (4) vehicles, each no larger than a medium rigid vehicle (MRV);
  - 1.2 The existing shed (162.5m<sup>2</sup> GFA) is to be utilised for the storage of approved vehicles;
  - 1.3 Provision of a maximum of four (4) shipping containers (approximately 60m<sup>2</sup> GFA) for the purposes of storage ancillary to the Transport Depot;
  - 1.4 A maximum of four (4) drivers and four (4) on-site staff are permitted onsite at any one time; and
  - 1.5 The area of the Transport Depot is limited to the area identified for the use on the approved plan.

##### CARRY OUT & MAINTAIN DEVELOPMENT

2. The development must comply with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they are not varied by this Development Approval.
3. Unless otherwise stated, all conditions must be complied with prior to the commencement of use and thereafter.
4. Complete all building work associated with this Development Approval, including work required by any of the conditions of this Development Approval prior to the commencement of use. Such building work is to be carried out generally in accordance with the Approved Plans and Documents and, where the building work is assessable development, in accordance with a current Building Work approval.

5. The development must be maintained generally in accordance with the Approved and Amended Plans and Documents subject to or modified by any conditions of this Development Approval.

#### **APPROVED PLANS**

6. The development must be carried out generally in accordance with the Approved Plan listed below, subject to the conditions of this Development Approval:

**Plan No:** Drawing No. 23-221: A003, Issue 3C.

**Description:** Proposed Site Plan, prepared by Designer Planning and dated 11 December 2023.

**Amendments:** As marked up in red by Council. An amended plan is not required to be submitted.

**Plan No:** Drawing No. 23-221: A004, Issue 3C.

**Description:** Proposed Floor Plan, prepared by Designer Planning and dated 11 December 2023

**Amendments:** Nil

**Plan No:** Drawing No. 23-221: A005, Issue 3C.

**Description:** Left Side Elevation, prepared by Designer Planning and dated 11 December 2023

**Amendments:** Nil

**Plan No:** Drawing No. 23-221: A006, Issue 3C.

**Description:** Right Side Elevation, prepared by Designer Planning and dated 11 December 2023

**Amendments:** Nil

#### **COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (OPERATIONAL WORK)**

7. Prepare and submit applications to Council and obtain a Development Permit for Operational Work for the following:

7.1 Driveway Crossover;

7.2 Bulk Earthwork; and

7.3 Stormwater Infrastructure.

#### **COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (FOR ENDORSEMENT)**

8. Prepare and submit the following documents in accordance with the conditions of this Development Approval and obtain Council's endorsement:

8.1 Landscape Plan; and

8.2 Site Based Environmental Management Plan.

#### **AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS**

9. A legible copy of the Development Approval, including the Approved and Amended Plans and Documents bearing Council's approved stamp must be available on the subject land for inspection at all times during earthworks and construction.

#### **COMMENCEMENT OF USE**

10. Submit to Council a Notice of Intention to Commence the Approved Use. The notice must:

- 10.1 Be submitted to the Manager, Planning within a minimum of ten (10) business days prior to commencement of the approved use;
- 10.2 Nominate the day the approved use is intended to commence; and
- 10.3 Include evidence (i.e. copies of decision notice(s), photographic proof, and statement(s) of compliance with the conditions of this approval from suitably qualified persons) which demonstrates that all conditions of this approval have been complied with.

## **DEVELOPMENT CONSTRAINTS**

### **AIRPORT ENVIRONS**

11. Any cleared vegetation must be mulched or removed from the subject land and not burnt on-site.
12. Landscaping does not include species that attract wildlife or increase wildlife hazards within a wildlife hazard buffer zone which could cause or contribute to bird-strike hazard.

## **WORKS**

### **ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS**

13. Plans and specifications for all works associated with car parking, vehicular access, stormwater drainage, earthworks, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).
14. A RPEQ must submit to Council a copy of the:
  - 14.1 Design Certificate prior to commencement of the works; and
  - 14.2 Construction Supervision Certificate upon completion of the works certifying that works are in accordance with the approved plans and specifications.
15. Any works that have been certified by an RPEQ must be carried out under the supervision of an RPEQ with all executed works being detailed on a Construction Supervision Certificate.
16. Where any condition refers to or requires an Engineer to perform a task or function, the Engineer must hold professional indemnity insurance to the value of \$2,000,000. A Certificate of Currency must be submitted to Council with any Design Certificate or Construction Supervision Certificate.

### **STORMWATER DRAINAGE**

17. All land adjoining the development must be protected from ponding or nuisance from stormwater resulting from the development for the life of the development.
18. All stormwater infrastructure necessary to convey run-off from roof and developed surface areas, and any run-off onto the subject land from adjacent areas, must be provided in accordance with a Development Permit for Operational Work.

*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*

19. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the internal and any external stormwater infrastructure. The design and the construction of the works must be certified by a RPEQ – Civil.

20. As part of a Development Application for a Development Permit for Operational Work submit to Council for approval, a Detailed Stormwater Management Plan prepared by a Registered Professional Engineer Queensland - Civil (RPEQ) in accordance with the relevant standards in *Planning Scheme Policy No. 2 - Engineering Standards – Roads and Drainage Infrastructure* (PSP No.2) and *State Planning Policy July 2017* demonstrating the following:
  - 20.1 Stormwater is conveyed to a lawful point of discharge in accordance with the stormwater discharge conditions of this Development Approval;
  - 20.2 Appropriate inspection and maintenance of stormwater quality control infrastructure in accordance with a program; and
  - 20.3 The achievement of Water Sensitive Urban Design objectives listed in PSP No. 2 and *State Planning Policy July 2017*.

### **STORMWATER DISCHARGE**

21. Stormwater from the new roofed and sealed areas must be picked up and discharged by way of sealed underground pipe to the existing underground stormwater infrastructure in McCartin Court.

*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*

### **BULK EARTHWORKS**

22. Where earthworks are not assessed as part of a Development Application for a Development Permit for Building Work, prior to the commencement of any earthworks on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council.

### **EROSION & SEDIMENT CONTROL**

23. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by the action of wind or running water must be stored clear of drainage paths and not within the road reserve at any time.
24. Measures such as sediment fences, earth berms, temporary drainage, temporary sediment basins, dewatering or stormwater filtering devices to prevent eroded material, sediment or sediment laden water from being transported to adjoining properties, roads or stormwater drainage systems must be provided.
25. Where erosion and sediment control measures have been damaged, fail or are inadequate and erosion or the release of sediment or sediment laden stormwater has occurred from the subject land or associated works, any resultant property or environmental damage or interference caused must be repaired or cleaned up within 24 hours or upon the direction of Council, at no cost to the affected parties.
26. All disturbed areas must be mulched or turfed as soon as possible during construction.
27. Measures such as vehicle baths, wash-down and construction matting together with dust suppressants and wraps, exposed ground and stockpile sprinkling must be put in place to minimise site vehicles tracking sediment onto adjoining streets during the course of the construction period, and to prevent dust nuisance during construction and, where applicable the ensuing 'on-maintenance' period.

## **DAMAGE TO SERVICES & ASSETS**

28. Protect Council and public utility services and assets during construction of the development.
29. Any damage caused to existing services and assets as a result of the development works must be repaired at no cost to the asset owner in accordance with the following timing:
  - 29.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
  - 29.2 Where otherwise, as soon as reasonably possible, but no later than completion of the works associated with the development or prior to the commencement of use, whichever is the earlier.
30. Any repair work which includes alteration to the alignment or the level of existing services and assets must first be referred to the relevant service authority for approval.
31. Construction, alterations and any repairs to Council infrastructure is undertaken in accordance with Council's relevant policies and requirements at no cost to Council.

*Note: Council must be notified of any damage to water and sewer immediately on Ph: 131 872.*

## **AIR QUALITY IMPACT MITIGATION**

32. Odours or airborne contaminants which are noxious or offensive to public amenity or safety, likely to cause environmental harm or environmental nuisance or exceed the *Air Quality Objectives* listed in the *Environmental Protection (Air) Policy 2019* as measured at any sensitive place or commercial place must not be released to the atmosphere during building and operational work.
33. All reasonable and feasible avoidance and mitigation measures are employed so that dust emissions generated during building works do not exceed the following levels when measured at any sensitive place or commercial place:
  - 33.1 Dust deposition of 133 milligrams per square metre per day, averaged over 1 month, when monitored in accordance with the most recent version of *Australian Standard AS3580.10.1 Methods for sampling and analysis of ambient air - Determination of particulate matter - Deposited matter - Gravimetric method*.

## **CONSTRUCTION WASTE MANAGEMENT & STORAGE**

34. Waste generated during demolition, excavation and construction must be managed in accordance with the waste management hierarchy as detailed in the *Waste Reduction and Recycling Act 2011*.
35. The on-site storage and disposal of demolition, excavation and construction waste (including the storage and disposal of night soil) must comply with the *Environmental Protection Regulation 2019*.
36. Fires are not to be lit to dispose of demolition or construction waste.
37. No demolition, excavation or construction waste is to be used as fill or buried on-site (with the exception of cut material recycled from the subject land and used on the subject land), or be used as fill or buried elsewhere, unless otherwise permitted:
  - 37.1 Elsewhere within this Development Approval;
  - 37.2 In accordance with an associated Development Permit for Operational Work;

- 37.3 In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*;
  - 37.4 In accordance with either a general or specific approval of a resource for beneficial use (otherwise known as a beneficial use approval) issued under the *Waste Reduction and Recycling Act 2011*; or
  - 37.5 In accordance with a written approval issued by Council under the *Environmental Protection Regulation 2019* relating to the depositing or disposal of general waste from a premises not serviced by Council.
38. Demolition, excavation and construction waste (including night soil) must not be placed or stored within the road reserve at any time.

### **CONSTRUCTION NOISE IMPACT MITIGATION**

39. Building work (as per the definition of the *Environmental Protection Act 1994*) that creates audible noise must be confined to the hours of 6:30 am and 6:30 pm Monday to Saturday (excluding Public Holidays) unless otherwise approved by Council in an endorsed Construction Environmental Management Plan.

## **SERVICES & UTILITIES**

### **WATER SUPPLY**

40. The development must be connected to Council's reticulated water supply in accordance with Council's *Water Infrastructure Policy 2.03* at no cost to Council.
- Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*
41. All water main fittings, services and meters must be located 1m clear of the proposed driveway footpath crossover. Any relocation of fittings clear of driveways must be undertaken by Council.
42. Any works on Council's 'live' water supply must be carried out by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.
43. Each individual tenancy or residence must be provided with a separate system for the metering of water consumption in accordance with Council's *Water Infrastructure Policy 2.03 Sub metering Guidelines and Specifications*.
44. The development's internal firefighting system must be designed and constructed in accordance with Council's *Water Infrastructure Policy 2.03* and relevant Australian Standards at no cost to Council. If the internal firefighting system is proposed to connect to Council's reticulation system, confirm the compliant performance in existing Council system prior to requesting any fire service connections. All pressure and flow tests within Council infrastructure must be undertaken by Council at no cost to Council.
45. Where the development requires higher fire flows than listed in Council's *Water Infrastructure Policy 2.03* for the relevant land zone, the Council water reticulation network must be upgraded, or fire break tanks must be provided at no cost to Council.

### **TELECOMMUNICATION**

46. Install telecommunications infrastructure to service the development which complies with the following:
- 46.1 The requirements of the *Telecommunications Act 1997* (Cth);

- 46.2 For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- 46.3 For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.
47. Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.
48. Provide to Council written evidence from all relevant service providers that the telecommunications infrastructure is installed in accordance with the conditions of this Development Approval and all applicable legislation at the time of construction.
- Note: The Telecommunications Act 1997 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required. For further information visit [www.infrastructure.gov.au/tind](http://www.infrastructure.gov.au/tind).*
- Note: For telecommunication services, written evidence must be in the form of either a "Telecommunications Infrastructure Provisioning Confirmation" where such services are provided by Telstra, or a "Notice of Practical Completion", "Confirmation of Payment" or "Post Execution of Development" Letter where such services are provided by NBN Co.*

## **ELECTRICITY**

49. An electricity supply must be made available to service the development. This supply must be in accordance with the relevant standards of the electricity distributor.

## **AMENITY & OPERATION OF USE**

### **VISUAL AMENITY**

50. Any graffiti deterrent building design elements and surface treatments are to be maintained at all times.
51. All buildings, structures and fences as well as the subject land must be maintained in a clean and tidy manner at all times.
52. All fixed mechanical plant must be contained within the building or visually screened to all street frontages, public viewing locations and adjoining premises.
53. Open storage areas, loading areas, bin storage areas and other unsightly areas, must be screened from view from all street frontages and public places.

## **TRANSPORT, VEHICULAR ACCESS & PARKING**

### **ROADWORKS SIGNAGE AND PEDESTRIAN SAFETY**

54. All works carried out on or near roadways must be adequately signed in accordance with the *Manual for Uniform Traffic Control Devices – Part 3, Works on Roads*.
- Note: Road or lane closures require approval from Council's Principal Engineer Road Operations, and all conditions of that approval complied with during construction of the works.*

55. Safe pedestrian access along Council's footpaths must be maintained at all times.

*Note: Should access to footpaths need to be restricted, a separate 'Temporary road or footpath closure' must be obtained from Council's Principal Engineer Road Operations, prior to the commencement of the works.*

#### **REMOVAL OR MODIFICATION OF COUNCIL TRAFFIC SIGNS OR PARKING BAYS**

56. Obtain the written approval of Council's Coordinator Traffic Management for any works involving the removal or modification of existing Council traffic signs or parking bays prior to the works commencing. Where approved by Council such works are to be undertaken at no cost to Council.
57. The installation or modification of any street signs or line marking must be in accordance with the Manual of Uniform Traffic Control Device (MUTCD).

#### **PROVISION OF VEHICULAR ACCESS**

58. The vehicle access from the subject land to McCartin Court must be sealed from the kerb and channel to the property boundary. The access must be designed by a Registered Professional Engineer Queensland (RPEQ) – Civil and must include the provision of adequate access width and flares to suit the proposed entry and exit manoeuvres. Such works must be constructed generally in accordance with any requirements as specifically required below:
- 58.1 The vehicle access must be located as shown on the Approved Plans listed within this Development Approval;
- 58.2 The vehicle access (crossing the verge) must be constructed generally in accordance with the Institute of Public Works Engineering Australasia *Drawing RS-051 Heavy Duty Vehicle Crossing*, and in accordance with *Australian Standard AS 2890 – Parking Facilities (Part 1 and as relevant Part 2)*;
- 58.3 The vehicle access (crossing of the verge) must align neatly on both sides with the pedestrian footpath and verge with a maximum cross fall of 2.5%; and
- 58.4 The vehicle access (crossing of the verge) must include suitable tapers and flares to accommodate the required turning paths of an MRV service vehicle.

#### **ON-SITE CAR PARKING, SERVICE BAYS & MANOEUVRING**

59. The premises must be provided with a total of 7 on-site car parking spaces inclusive of 1 PWD car parking space, together with standing and manoeuvring for MRV service vehicles. Car parking and manoeuvring areas must be:
- 59.1 Constructed generally as shown on the Approved Plans listed within this Development Approval;
- 59.2 Provided with a sealed surface and be line marked or otherwise delineated to the minimum dimensions detailed in the *Toowoomba Regional Planning Scheme 2012 and Australian Standard AS2890 - Parking Facilities*;
- 59.3 Designed and constructed in accordance with the requirements of AS2890;
- 59.4 Designed to ensure disabled car parking spaces are located in close proximity to a primary building entrance and meet the requirements of AS2890.1 Clause 2.4.5 (1.3m high bollards), AS1428.1 and AS2890.6:2009;
- 59.5 Accessible and available to the general public and staff during approved hours of operation.

- 59.6 Provided with signage and pavement markings that indicate the location of parking areas and the proposed flow of traffic through the subject land;
- 59.7 Maintained as originally constructed and kept and used exclusively for vehicle parking and manoeuvring; and
- 59.8 Designed to enable all vehicles to enter and leave the subject land in a forward gear.

## **ENVIRONMENT & WASTE**

### **ACOUSTIC AMENITY - GENERAL**

- 60. Unless otherwise approved in writing by Council, the approved use must not operate outside the hours of:
  - 60.1 6:00 AM to 7:00 PM Monday to Friday;
  - 60.2 7:00 AM to 5:00 PM Saturday; and
  - 60.3 No operations on Sunday or Public Holidays.

*Note: The requirements of this condition must be included in the Community Management Statement for any body corporate for the subject land.*
- 61. Service vehicle movements associated with the approved use (including loading and unloading) must occur only between the hours of:
  - 61.1 6:00 AM to 7:00 PM Monday to Friday;
  - 61.2 7:00 AM to 5:00 PM Saturday; and
  - 61.3 No servicing on Sunday or Public Holidays.

*Note: The requirements of this condition must be included in the Community Management Statement for any body corporate for the subject site.*

*Note: Service vehicles do not include waste collection vehicles or activities.*
- 62. The use must not operate on Sundays or public holidays.
- 63. Drainage grating over trafficable areas must be well secured and maintained to prevent rattling.
- 64. Driveway areas are to be finished with a surface which prevent tyre squeal. An uncoated surface is acceptable.

### **ACOUSTIC AMENITY - NOISE LIMITS**

- 65. Noise from activity associated with the use of the subject land must not exceed the Acoustic Quality Objectives listed in the *Environmental Protection (Noise) Policy 2019* when measured at any sensitive receptor.

66. Where considered warranted by Council and when requested in writing to do so, a noise investigation must be undertaken to investigate a complaint of noise nuisance. In such instances, a suitably qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the Noise Emission Limits listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request. Measurement of noise emissions (adjusted for tonality and impulse) must be generally in accordance with the most recent version of *Australian Standard AS1055.1 Acoustics - Description and measurement of environmental noise - General procedures*.

#### **ACOUSTIC AMENITY - MECHANICAL PLANT**

67. All "refrigeration equipment", "pumps", "regulated devices", and "air conditioning equipment" as defined by *the Environmental Protection Act 1994* must be designed, installed, operated and maintained to comply with the noise standards as specified within the *Environmental Protection Act 1994*.

#### **AIR QUALITY & AMENITY - AIR RELEASE LIMITS**

68. Odours or airborne contaminants which are noxious or offensive to public amenity or safety, likely to cause environmental harm or environmental nuisance or exceed the Air Quality Objectives listed in the *Environmental Protection (Air) Policy 2019* as measured at any sensitive receptor place must not be released to the atmosphere.

#### **AIR QUALITY & AMENITY - AIR RELEASE LIMITS (DUST)**

69. All reasonable and feasible avoidance and mitigation measures are employed so that dust emissions generated from activity associated with the use of the subject land do not exceed the following levels when measured at any sensitive place or commercial place:
- 69.1 Dust deposition of 133 milligrams per square metre per day averaged over 1 month, when monitored in accordance with the most recent version of *Australian Standard AS3580.10.1: Methods for sampling and analysis of ambient air - Determination of particulate matter - Deposited matter - Gravimetric method*.
- 69.2 A concentration of particulate matter with an aerodynamic diameter of less than 10 micrometres (PM<sub>10</sub>) suspended in the atmosphere of 50 micrograms per cubic metre over a 24-hour averaging time, for no more than 5 exceedances recorded each year, when monitored in accordance with the most recent version of either:
- i) *Australian Standard AS3580.9.6: Methods for sampling and analysis of ambient air—Determination of suspended particulate matter - PM<sub>10</sub> high volume sampler with size-selective inlet – Gravimetric method*; or
  - ii) *Australian Standard AS3580.9.9: Methods for sampling and analysis of ambient air - Determination of suspended particulate matter - PM<sub>10</sub> low volume sampler - Gravimetric method*.
70. Where considered warranted by Council and when requested in writing to do so, an air quality investigation must be undertaken to investigate a complaint of air pollution, odour or dust nuisance. In such circumstances, a qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the Air Release Limits listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request.

## **AIR QUALITY & AMENITY - DUST SUPPRESSION TREATMENTS**

71. Vehicle manoeuvring areas are to be provided with a surface that prevents tyre squeal that causes environmental nuisance at any receptor.
72. Where a gravel below 16 millimetres in diameter is utilised for the surface of the gravel hardstand:
  - 72.1 Hardstand areas must be first treated with a dust suppressant product (such as PetroTac) in accordance with the manufacturers specifications; and
  - 72.2 Records documenting maintenance inspections and dust suppressant application history details must be maintained and made available for inspection at any time upon request by Council.

## **OUTDOOR LIGHTING IMPACT MITIGATION**

73. Outdoor lighting associated with the use must be designed, sited, and installed to comply with the relevant parameters of *Australian Standard AS4282-2019 Control of the obtrusive effects of outdoor lighting*.
74. All flood lighting must be of a type that gives no upward component of light when mounted horizontally (i.e. a full cut off luminaire).
75. Where considered warranted by Council and when requested in writing to do so, a lighting impact investigation must be undertaken to investigate a complaint of light nuisance. In such circumstances, a suitably qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the lighting levels listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request.

## **WASTE MANAGEMENT (GENERAL)**

76. All waste generated on the subject land must be managed in accordance with the waste management hierarchy as detailed in the *Waste Reduction and Recycling Act 2011*.

## **WASTE MANAGEMENT (BIN PROVISION & STORAGE)**

77. Refuse storage facilities must be provided generally in accordance with the Approved Plans listed within this Development Approval and the following:
  - 77.1 The size, mix and capacity of bins provided must be sufficient to accommodate the type and level of waste likely to be generated from the development having regard to the frequency of disposal or collection;
  - 77.2 Provision of a hardstand impervious area within the curtilage of the site for the permanent storage location of wheelie bins, having minimum dimensions of 0.36 m<sup>2</sup> (600mm x 600mm) per wheelie bin and located no closer than 2m to any fresh air intake of a habitable room;
  - 77.3 Refuse storage facilities must be screened from public vantage points with a minimum 1.5m high built structure, enclosure or solid screen fencing.
  - 77.4 Provision of a grassed or landscaped area within the development site that is at least twice the size of the bin store and adjacent to a tap for the washing of bins.
  - 77.5 Bins must be kept in a clean state and in good repair and fitted with tight-fitting lid assemblies designed to prevent ingress of pests and water.

## **WASTE MANAGEMENT (REMOVAL)**

78. Unless otherwise endorsed by Council in a waste management plan, arrangements for waste removal are provided in accordance with the following requirements:
- 78.1 Collection by a refuse vehicle from the kerbside.
  - 78.2 Provision of a level area at the kerbside for the temporary storage of wheelie bins on collection days having minimum dimensions of 1m<sup>2</sup> (1,000mm x 1,000mm) per wheelie bin;
  - 78.3 General waste must be collected and removed at periods not exceeding seven days;
  - 78.4 Bins must be stored at their place of permanent storage other than times ahead of or during waste removal;
  - 78.5 The waste collection method must ensure that waste is adequately managed to prevent escape of contamination;

## **SITE BASED ENVIRONMENTAL MANAGEMENT PLAN**

79. Submit to Council for endorsement a Site Based Environmental Management Plan prepared by a suitably qualified person that, at a minimum, includes the following:
- 79.1 Location of the site, including physical address, lot on plan and relevant scaled maps
  - 79.2 Description of the site (infrastructure and features on or near the site and those requiring protection)
  - 79.3 Contact details and responsibilities for site representatives
  - 79.4 Description of activities to be conducted on site and other relevant supporting information including:
    - Location of activity areas;
    - Employee, patron and vehicle numbers;
    - Operating hours;
    - Activity descriptions including plants and equipment to be used on site; and
    - When relevant, prohibited activities and prohibited areas.
  - 79.5 Site Plans clearly showing where proposed activities will occur, along with adequate notes for proposed environmental management measures that will be built into the site.
  - 79.6 Strategies to Manage Environmental Impact:
    - Air Quality and Dust Management;
    - Noise Impact Management;
    - Water Quality;
    - Waste Management;
    - Hydrocarbon, Chemical and Dangerous Goods Management; and
    - Any other relevant topics.
  - 79.7 Complaints management procedure, including processes for recording details of and addressing complaints;

- 79.8 Emergency procedures;
- 79.9 Document Control and review procedures – internal review every 2 years or following any significant change or incident on site.
- 80. The Site Based Environmental Management Plan must receive endorsement by Council prior to the commencement of the Approved Use.
- 81. The endorsed Site Based Environmental Management Plan must be implemented, maintained and modified where necessary to maintain compliance with the requirements of this Development Approval at all times.
- 82. No spray painting (other than minor touch ups) is to be conducted at the premises.

#### **STORAGE OF LIQUID CHEMICALS**

- 83. All liquid chemicals (including flammable liquids, agricultural and veterinary chemicals, waste oil, acid and lube oil) must be stored within dedicated impervious secondary containment stores, structures or devices and in a manner that complies with *Australian Standards AS1940 - The storage and handling of flammable and combustible liquids* and *AS 2507 - The storage and Handling of Agricultural and Veterinary Chemicals*.

#### **TRUCK WASHING AND STORMWATER QUALITY**

- 84. Vehicle washing activities must be undertaken in a manner described with the endorsed Site Based Environmental Management Plan.
- 85. Contaminants or contaminated water must not be directly or indirectly released from the subject land or to the ground or groundwater at the subject land at any time except:
  - 85.1 Following treatment using an appropriate stormwater quality improvement device (SQID) as uncontaminated overland stormwater flow;
  - 85.2 Following treatment using an appropriate stormwater quality improvement device (SQID) as uncontaminated stormwater to the stormwater system; and
  - 85.3 Contaminants released to the wastewater system under and in accordance with a trade waste permit issued by Council under the *Water Supply (Safety and Reliability) Act 2008*.
- 86. Any material (fuel, solvents, coolants, degreasing agents etc.) likely to pollute water must be stored within a bunded compound or area to prevent it escaping into surface or underground water resources.
- 87. All wastewater and cleaning liquids associated with any vehicle wash down activity undertaken on the subject land must be collected or contained on site and regularly removed by a contractor licensed to transport the waste or treated and disposed of to an appropriate and approved stormwater quality improvement device (SQID) to remove all water contaminants, particularly hydrocarbons, prior to releasing stormwater to land or a lawful point of discharge.

## LANDSCAPING

### LANDSCAPE PLAN

88. Prior to the commencement of any works on site or the issue of a Development Permit for Operational Work or Building Work (whichever occurs first), submit to Council for endorsement, a Landscape Plan prepared by a suitably qualified person prepared generally in accordance with *Toowoomba Regional Council's Landscape Work Information Sheet 006* and the conditions of this Development Approval, including the landscaping shown on all Approved Plans listed in this Development Approval, that details in particular:
- 88.1 North point, scale, title and drawing number.
  - 88.2 A Planting Plan and Schedule including quantities and nominated species in situ;
  - 88.3 The typical planting detail including preparation, backfill, staking and mulching;
  - 88.4 Internal dimensions of all planting areas, including all containerised planters;
  - 88.5 Location and species of existing site vegetation to be removed and/or retained in accordance with this Development Approval, including adjacent street trees to be retained and/or removed;
  - 88.6 Construction details of proposed surfaces, surface level changes and structures, including indicative locations of signage, services and infrastructure within the site and public verge.
  - 88.7 All trees must be supplied in the following minimum container sizes:
    - i) 25 litre (minimum size 1.2m) for trees in private land; and
    - ii) 45 litre (minimum size 1.5m) or larger containers for trees in public land, including street trees;
  - 88.8 Root barrier devices must be installed where tree plantings are sited within 2 metres of any services and or structures unless varied within the approved Landscape Plan. barriers must be fit for purpose and installed in accordance with the manufacturer's specification;
  - 88.9 All other plant material must be supplied in 140mm or larger containers;
  - 88.10 Location, height and finish of fencing fronting public land (including street frontages);
  - 88.11 Sight lines at pedestrian and vehicle entrance points must be maintained through the use of trees with a clean trunk to 1.8m height and shrubs to a maximum height of 0.75m.
  - 88.12 Densely vegetated screening of all acoustic barriers in accordance with the conditions of this Development Approval (where required).
  - 88.13 Unless otherwise agreed to in writing by Council a minimum of 5 street trees are required within the McCartin Court and Carrington Road verges fronting the site. The Landscape Plan must include the following additional information:
    - i) Location and species of the proposed or required street tree(s);
    - ii) Typical cross section through each street typology indicating clearance of street trees from underground services, kerbs and footpaths in accordance with PSP2 Engineering Standards; and

- iii) A planting schedule indicating the number of each species type;

*Note: Street trees required to be supplied as a condition if this Development Approval must be supplied in 45L containers or as otherwise specified. Proposed street trees, if approved, are expected to be supplied in 45L containers.*

88.14 Control of all weed species listed in the following standards and legislation:

- i) Declared plants under the *Biosecurity Act 2014* and subordinate regulation.
- ii) Toowoomba Region Biosecurity Plan (August 2020)

89. The Landscape Plan must receive endorsement by Council prior to lodgement of any Development Application for a Development Permit for Operational Work or commencement of any site works.

### **LANDSCAPING WORKS**

90. The development must be landscaped in accordance with the conditions of this Development Approval and the requirements listed in the Landscape Code contained within the *Toowoomba Regional Planning Scheme 2012* in a manner that:

- 90.1 Maximises the extent of new site vegetation to define boundaries, create shade and contribute to the site character;
  - 90.2 Includes large scale canopy trees between buildings and along boundaries to visually fragment the views and provide shade to buildings and pavement;
  - 90.3 Provides tiered screen planting that includes trees, and understorey planting of shrubs, grasses and groundcovers along boundaries (where required).
  - 90.4 Planting areas must be a friable, organic topsoil, cultivated to minimum 450mm depth and be clear of any rubbish, rocks or building rubble;
  - 90.5 All planting areas and individual trees must be mulched with minimum 100mm depth organic mulch;
  - 90.6 An irrigation system or watering points must be provided to all planting areas;
  - 90.7 Provides a minimum of 70% of the landscape area retained as a permeable surface;
  - 90.8 Designates variation in pavement colours and/or materials to define safe pedestrian movement areas;
  - 90.9 Utilises plant species which are characteristic of the local area and provides seasonal variation, colour and texture;
  - 90.10 Where planting areas are intended to serve a stormwater function, sub soil drainage is installed and connected to the main system and soils and plant species are suited to the purpose; and
  - 90.11 Provide a minimum of 2 shade trees over car park areas.
91. All landscape works must be established by a suitably qualified person and maintained in accordance with the conditions of this Development Approval for the life of the development, and in a manner that ensures healthy, sustained, and vigorous plant growth. All plant material must be allowed to grow to full form and be replaced when its life expectancy is reached.

92. A copy of as-constructed drawings and certification must be submitted to Council from a suitably qualified person who verifies that landscaping established complies with the requirements of this Development Approval.

## ADVICES

### SUBMISSION OF PLANS FOR ENDORSEMENT

- 1) The conditions of this Development Approval require submission of plans to Council for endorsement. Please address the plans for endorsement to Council's Planning Branch with the Reference No. MCUI/2023/3530 and send to [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au).

### INFRASTRUCTURE CHARGES

- 2) Infrastructure charges are levied by way of an Infrastructure Charges Notice, issued pursuant to Section 119 of the *Planning Act 2016*.

### OTHER LAWS & REQUIREMENTS

- 3) This Development Approval relates to development requiring approval under the *Planning Act 2016* only. It is the approval holder's responsibility to obtain any other necessary approvals, licenses or permits required under State and Federal legislation or Council local law, prior to carrying out the development. Information with respect to other Council approvals, licenses or permits may be found on the Toowoomba Regional Council website. For information about State and Federal requirements please consult with these agencies directly.
- 4) Carrying out works on a road or interfering with the road or its operation will require a permit under *Subordinate Local Law No. 1.15 (2020)*. The application form can be found on Council's website at [www.tr.qld.gov.au](http://www.tr.qld.gov.au). For further information contact the Road Operations Branch through Council's Customer Service Centre on 131 872.
- 5) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme 2012*. No assessment has been made in respect of the provisions of the *Building Code of Australia* and/or the *Queensland Development Code*.

### WHEN APPROVAL STARTS TO HAVE EFFECT

- 6) This Development Approval starts to have effect in accordance with the provisions of Section 71 of the *Planning Act 2016*.

### WHEN APPROVAL LAPSES

- 7) This Development Approval will lapse in accordance with the provisions contained in Sections 85 and 88 of the *Planning Act 2016*, unless otherwise stated elsewhere within this Development Approval.

### CLEARING OF PROTECTED PLANTS

- 8) In accordance with *Nature Conservation (Animals) Regulation 2020* you must check the flora survey trigger map, prior to the clearing of any native plants found on the subject land to determine if a flora survey must be undertaken and if a clearing permit for clearing endangered, vulnerable and near threatened plants ('EVNT plants') and their supporting habitat is required.

Under the Regulation, if a flora survey identifies that EVNT plants are not present or can be avoided by 100m, the clearing activity may be exempt from a permit, however an exempt clearing notification form must be submitted to the Department of Environment and Science. In an area other than a high risk area, a clearing permit is only required where a person is, or becomes, aware that EVNT plants are present, though a range of exemptions do apply. Clearing of least concern plants is generally exempt from requiring a clearing permit. For further information associated with the clearing of protected plants and to obtain flora survey trigger map for your site please refer to the Departmental website.

### **EXCAVATION & FILLING**

- 9) The *Toowoomba Regional Planning Scheme 2012* (TRPS) declares excavation and filling activity involving less than 50m<sup>3</sup> of material and excavation and filling activity to a depth or height lower than 1m to be accepted development. Any combination of excavation or filling where 50m<sup>3</sup> or more of fill is deposited on, or 50m<sup>3</sup> or more of excavated material is removed from the premises and excavation or filling is not associated with 'Building Work' as defined under the *Planning Act 2016*, must obtain an Operational Work approval from Council before commencing site works.

### **WASTEWATER TREATMENT & DISPOSAL SYSTEM**

- 10) The establishment of a wastewater treatment and disposal system for the subject land requires a Compliance Permit to be obtained from Council under the *Plumbing and Drainage Act 2018*. The system must be designed in accordance with the *Queensland Plumbing and Wastewater Code* (Department of State Development and Infrastructure & Planning, 2007) and the *Australian & New Zealand Standard AS/NZS1547 On-site domestic wastewater management*.

Please contact Council's Plumbing and Drainage team via the Customer Service Centre for further information in respect of a Compliance Permit. Where a development exceeds the accommodation or use of 21 or more equivalent persons an Environmental Authority from the Department of Environment and Science will also be required.

### **EQUITABLE ACCESS & FACILITIES**

- 11) The plans for the proposed building work have NOT been assessed for compliance with the requirements of the *National Construction Code - Building Code of Australia (Volume 1)* as they relate to people with disabilities.

In addition to the requirements of the National Construction Code as they relate to people with disabilities, one or more of the following may impact on the proposed building work:

- 11.1 The *Disability Discrimination Act 1992* (Cth);
- 11.2 The *Anti-Discrimination Act 1991* (Qld); and
- 11.3 The *Disability (Access to Premises - Buildings) Standards*.

### **CLINICAL WASTE**

- 12) The management, treatment and disposal of clinical waste must be conducted in accordance with the provisions of Part 5B and Part 7B of the *Waste Reduction and Recycling Regulation 2011*.

## **ENVIRONMENTAL HARM**

- 13) The *Environmental Protection Act 1994* (EP Act) states that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm.

Environmental harm includes environmental nuisance. In this regard persons and entities involved in the civil, earthworks, construction and operational phases of this development are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm. Environmental harm is defined by the EP Act as any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance.

Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Administering Authority to cause undue disturbance or annoyance to persons or affect property not connected with the use.

## **ENVIRONMENT PROTECTION & BIODIVERSITY CONSERVATION ACT 1999**

- 14) An additional approval from the Commonwealth Government under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) may be required in relation to the approved development. The EPBC Act relates to actions that may have a significant impact on matters of national environmental significance (NES) or the environment generally if on Commonwealth land. These matters of NES include nationally listed threatened and migratory species, Ramsar wetlands, World Heritage, Commonwealth marine and nuclear actions.

The EPBC Act provides that a person must not take an action that has, will have or is likely to have a significant impact on matters of NES, without the approval of the Commonwealth Environment Minister. Such actions should be referred to the Minister for a decision on whether or not approval is required under the EPBC Act.

Contact the Australian Government Department of Agriculture, Water and the Environment to discuss any obligations under the EPBC Act.

## **ENVIRONMENTALLY RELEVANT ACTIVITIES**

- 15) Should the premises, or any part of the premises, be used for an "Environmentally Relevant Activity" as defined under Schedule 2 the *Environmental Protection Regulation 2019*, separate approval is required by the relevant Administering Authority in accordance with the *Environmental Protection Act 1994* and where applicable the *Planning Act 2016* before such use commences.

## **FIXED MECHANICAL PLANT NOISE**

- 16) Ensure that during the detailed building design and construction phase, including the design, selection and installation of fixed plant and equipment, A/C units and refrigeration plant, mechanical exhausts, acoustic enclosures/plant rooms and the like, that the ongoing advice and design input of a qualified acoustic consultant is sought and implemented to ensure that the operation of such plant and equipment complies with statutory and planning noise limits.

Mechanical plant and equipment should be provided with appropriate acoustic enclosures or screening and located away from adjacent noise sensitive premises.

## **WATER POLLUTION**

- 17) In accordance with the *Environmental Protection Act 1994*, all sand, silt, mud, paint, cement, concrete, construction material and demolition material, and other such waste material must not be deposited or placed where it could reasonably be expected to travel into a roadside gutter, stormwater drain or watercourse. On the spot fines apply for such offences.

## **ABORIGINAL CULTURAL HERITAGE ACT 2003**

- 18) There may be a requirement to establish a Cultural Heritage Management Plan and/or obtain approvals pursuant to the *Aboriginal Cultural Heritage Act 2003* ("ACH Act").

The ACH Act establishes a cultural heritage duty of care which provides that: "A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage." It is an offence to fail to comply with the duty of care. Substantial monetary penalties may apply to individuals or corporations breaching this duty of care. Injunctions may also be issued by the Land Court, and the Minister administering the ACH Act may also issue stop orders for an activity that is harming or is likely to harm Aboriginal cultural heritage or the cultural heritage value of Aboriginal cultural heritage.

You should contact the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) Cultural Heritage Unit on 07 3247 6212 to discuss any obligations under the ACH Act.

## **FIRE ANTS**

- 19) The State of Queensland has been declared a quarantine area for the Red Imported Fire Ant. Should this approval involve the movement of restricted items from areas of known infestation the provisions of the *Biosecurity Act 2014* apply, compliance with statutory provisions must be achieved.

## **ADVERTISING SIGNS**

- 20) Placing an advertising device on premises is accepted development where complying with the assessment benchmarks that form the requirements for accepted development in the Advertising Devices Code in the *Toowoomba Regional Planning Scheme 2012*. A separate Operational Work approval will be required for any Advertising Devices not complying with the assessment benchmarks that form the requirements for accepted development in the Advertising Devices Code.

## **BUILDING APPROVAL REQUIRED FOR CERTAIN FENCES & RETAINING WALLS**

- 21) A Development Approval for Building Work is required for the following:

### 21.1 Fences where:

- The fence is part of a pool fence; or
- The fence is over 2m in height (from natural ground level); or
- The fence is attached to a retaining wall and the combined mean height is over 2.4m in height from natural ground level;

### 21.2 Retaining walls where:

- The wall is retaining fill having a height greater than 1m in height above the wall's natural ground surface; or
- The wall is located within 1.5m of a building or another retaining wall; or

- There is a load or surcharge imposed above the retaining wall (i.e. driveway, batter, building or the like); and

21.3 Retaining walls and/or fences are sited within 1.5m of a property boundary line and the combined height of the structures exceeds 2m (including where the retaining wall is less than 1m).

#### **BUILDING OVER, OR NEAR, COUNCIL INFRASTRUCTURE**

22) Any construction carried out near or over existing Council services should be in accordance with Council's adopted Policy (*Queensland Development Code NMP 1.4 – Excavation and Piling Near Sewers, Stormwater Drains and Water Mains*) and Council's Planning Scheme Policy SC6.3 PSP No. 3– *Water and Wastewater Infrastructure*. A Concurrence Agency referral of the Building Work Application to Council's Water and Wastewater Services Branch may be required.

#### **MANDATORY RAINWATER TANKS**

23) Toowoomba Regional Council requires mandatory rainwater tanks and water saving measures on new dwellings and commercial buildings. Queensland Development Code (QDC) 4.2 is now applicable to any new class 1 (a)(i) buildings (single detached dwellings) on blocks greater than 250m<sup>2</sup>. Dwellings on lots less than 250m<sup>2</sup> are exempt. Queensland Development Code 4.3 is applicable for any new commercial buildings (class 5 to 9). Please note that Multiple Dwellings are exempt. Further information can be found at:

<https://www.tr.qld.gov.au/environment-water-waste/water-supply-dams/water-restrictions-conservation/13320-rainwater-tanks>

#### **STORMWATER DISCHARGE TO PARKLAND**

24) This Development Approval does not infer or give approval to the owners or occupiers of the subject land to discharge stormwater to Council's parkland. Separate, written approval is required where stormwater is expected to be discharged to Council parkland. Please contact Council's Parks and Recreation Services Branch via the Customer Service Centre for further information in respect of approval for stormwater discharge to parkland.

#### **SUITABLY QUALIFIED PERSON**

25) For the purpose of preparing a Landscape Plan, a suitably qualified person is considered to be a Registered Landscape Architect or Landscape Designer with a minimum of 5 years current experience in the field of landscape design.

26) For the purpose of certifying acoustic treatments for the development, a suitably qualified person is considered to be either:

26.1 A Registered Professional Engineer of Queensland (RPEQ); or

26.2 An environmental consultant with a minimum of 3 years current experience in the field of acoustics.

27) For the purpose of certifying acoustic barrier construction for the development, a suitably qualified person is considered to be a Registered Professional Engineer of Queensland (RPEQ).

28) For the purpose of certifying outdoor lighting devices for the development, a suitably qualified person is considered to be either:

28.1 A Registered Professional Engineer of Queensland (RPEQ); or

28.2 An environmental or electrical design consultant with a minimum of 3 years current experience in the field of outdoor lighting.

**C. ATTACHMENTS:**

- Approved Development Plans
- Concurrence Agency Conditions Schedule 2
- Appeal provisions pursuant to the *Planning Act 2016*.

**SCHEDULE 2**

**CONCURRENCE AGENCY (CONDITIONS AND COMMENTS)**

**DEPARTMENT OF STATE DEVELOPMENT, INFRASTRUCTURE, LOCAL GOVERNMENT AND  
PLANNING**



SARA reference: 2309-36567 SRA  
 Council reference: MCUI/2023/3530  
 Applicant reference: 11426M

11 October 2023

Chief Executive Officer  
 Toowoomba Regional Council  
 PO Box 3021  
 TOOWOOMBA QLD 4350  
 development@tr.qld.gov.au

Attention: Bevan Koelmeyer

Dear Mr Koelmeyer

## SARA referral agency response—2 McCartin Court, Torrington

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 7 September 2023.

### Response

Outcome:	Referral agency response – with conditions
Date of response:	11 October 2023
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval
Advice:	Advice to the applicant is in <b>Attachment 2</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b>

### Development details

Description:	Development permit	Material change of use for Transport Depot
SARA role:	Referral agency	
SARA trigger:	Schedule 10, part 9, division 4, subdivision 2, table 4, item 1 (Planning Regulation 2017)	
	Development near a state transport corridor or that is a future state	

transport corridor

SARA reference: 2309-36567 SRA

Assessment manager: Toowoomba Regional Council

Street address: 2 McCartin Court, Torrington

Real property description: Lot 7 on SP166685

Applicant name: Genius Removals Pty Ltd

Applicant contact details: C/- ONF Surveyors  
PO Box 3044  
Darra QLD 4076  
admin@onfsurveyors.com.au

*Human Rights Act 2019* considerations: A consideration of the 23 fundamental human rights protected under the *Human Right Act 2019* has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

## Representations

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An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (section 30 of the Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Stephanie Brannock, Planning Officer, on (07) 3432 2414 or via email ToowoombaSARA@dildilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Kieran Hanna  
Manager (Planning)

enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations about a referral agency response provisions

cc Genius Removals Pty Ltd, admin@onfsurveyors.com.au

## Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application)

No.	Conditions	Condition timing
<b>Development Permit - Material Change of Use for a Transport Depot</b>		
Schedule 10, part 9, division 4, subdivision 2, table 4, item 1 (Planning Regulation 2017) - Development near a state transport corridor or that is a future state transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition:		
1.	<p>Stormwater management of the development must not cause worsening to the operating performance of the state-controlled road, such that any works on the land must not:</p> <ul style="list-style-type: none"> <li>(i) create any new discharge points for stormwater runoff onto the state-controlled road</li> <li>(ii) concentrate or increase the velocity of flows to state-controlled road</li> <li>(iii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road</li> <li>(iv) surcharge any existing culvert or drain on the state-controlled road</li> <li>(v) reduce the quality of stormwater discharge onto the state-controlled road</li> <li>(vi) impede or interfere with any overland flow or hydraulic conveyance from the state-controlled road.</li> </ul>	At all times.

## Attachment 2—Advice to the applicant

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General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) (version 3.0). If a word remains undefined it has its ordinary meaning.

## Attachment 3—Reasons for referral agency response

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(Given under section 56(7) of the *Planning Act 2016*)

### The reasons for the SARA's decision are:

The development complies with State code 1: Development in a state-controlled road environment of the SDAP version 3.0 subject to a condition. Specifically, the development does not:

- create a safety hazard for users of a state-controlled road
- result in a worsening of the physical condition or operating performance of state-controlled roads and the surrounding road network
- compromise the state's ability to construct, or significantly increase the cost to construct state-controlled roads and future state-controlled roads
- compromise the state's ability to maintain and operate state-controlled roads, or significantly increase the cost to maintain and operate state-controlled roads.

### Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- section 58 of the *Human Rights Act 2019*

## Attachment 4—Representations about a referral agency response provisions

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# Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding **representations about a referral agency response**

## Part 6: Changes to the application and referral agency responses

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### 28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
  - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
  - (c) the applicant has given written agreement to the change to the referral agency response.<sup>2</sup>
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
  - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

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<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

## **Part 7: Miscellaneous**

### **30 Representations about a referral agency response**

- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>3</sup>

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<sup>3</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

**List of Submitters:-**

Kerry Galway and Sharyn E M Galway  
1 McCartin Court  
TORRINGTON QLD 4350

Callum David Larsen  
6 McCartin Court  
TORRINGTON QLD 4350

Richard Alexander Booth  
5 McCartin Court  
TORRINGTON QLD 4350

## Chapter 6, Part 1 of the Planning Act 2016 Appeal rights

### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the **appellant**); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
    - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
    - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
    - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
    - (iv) otherwise—20 business days after the day the notice is given; or
  - (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note— See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar

must, within the service period, give a copy of the notice of appeal to—

- (a) the respondent for the appeal; and
- (b) each co-respondent for the appeal; and
- (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
- (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
- (f) for an appeal to the P&E Court—the chief executive; and
- (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.

(4) The **service period** is—

- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
- (b) otherwise—10 business days after the appeal is started.

(5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).

(6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—

- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
- (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

(7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

### 231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2) schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—

**decision** includes—

- (a) conduct engaged in for the purpose of making a decision; and
- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or the failure to make a decision; and
- (d) a purported decision; and
- (e) a deemed refusal.

**non-appealable**, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

### 232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.